

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT ENSURING THAT MONTANA PARTICIPATES IN AND BENEFITS FROM DEVELOPING CARBON MARKETS; REQUIRING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO REVIEW AND RECOMMEND THE TERMS OF STATE MEMBERSHIP IN A CARBON TRADING SYSTEM; PROVIDING RULEMAKING AUTHORITY; AUTHORIZING THE LICENSING OR LEASING OF STATE TRUST LANDS FOR CARBON OFFSETS; AMENDING SECTIONS 77-1-203, 77-1-209, 77-5-223, AND 77-6-116, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, by participating in the Chicago Climate Exchange, Montana is able to help design workable rules and protocols for a carbon trading system and enjoy the financial benefits from environmentally sustainable practices; and

WHEREAS, by joining the Chicago Climate Exchange, the state makes a voluntary, but legally binding, commitment to reduce greenhouse gas emissions from the electricity and fuel used to operate state facilities and motor vehicles; and

WHEREAS, Chicago Climate Exchange members are required to reduce greenhouse gas emissions by 6% by 2010, compared to their average emissions between 1998 and 2001; and

WHEREAS, the reduction target applies only to state government operations; and

WHEREAS, the state of Montana recognizes that states can play an integral role in adopting policies to address climate change and promote strategies to reduce greenhouse gases while advancing technologies to develop clean, renewable, and homegrown energy resources; and

WHEREAS, carbon offset trading is creating new financial incentives for landowners to maintain their forests and agricultural lands and can provide another source of revenue for the many foresters, farmers, and ranchers of the state of Montana; and

WHEREAS, using estimates of \$20 to \$30 per ton of carbon, paying farmers to sequester 200 million metric tons a year could add \$4 billion to \$6 billion of gross income to the farm economy; and

WHEREAS, carbon is becoming one of the most rapidly growing international commodities traded.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1

2 **NEW SECTION. Section 1. Carbon trading system -- terms of membership.** (1) By July 1, 2009, the
3 department of environmental quality shall review the terms associated with joining an active, legally binding,
4 integrated carbon trading system to reduce emissions of all six major greenhouse gases with worldwide offset
5 projects and shall make a recommendation to the board of environmental review regarding Montana's terms of
6 membership in such a program.

7 (2) The department of environmental quality shall collaborate with the department of natural resources
8 and conservation in considering the potential role of state trust lands in a carbon trading system consistent with
9 77-1-203 if and when proposals to sequester carbon are received by the department of environmental quality.

10 (3) Before September 1, 2009, the board of environmental review shall adopt rules necessary for the
11 implementation of this section including but not limited to rules governing the following:

- 12 (a) the tracking, reporting, and documentation of greenhouse gas emissions by state government;
13 (b) progress toward meeting the reduction targets required by participation in a carbon trading system;
14 and
15 (c) payment of membership fees, penalties, and any associated costs related to participating in a carbon
16 trading system.

17

18 **NEW SECTION. Section 2. Carbon offsets -- duties of board -- authority.** (1) The board may license
19 or lease state trust lands for a term determined by the board based on carbon markets for the purpose of carbon
20 offsets.

21 (2) A carbon offset agreement must provide for indemnification to the state of Montana in the case of
22 cancellation of a lease or license or noncompliance with an agreement between a lessee and a carbon offset
23 provider.

24 (3) Pursuant to department rules, the department may issue licenses for any secondary use, including
25 carbon offsets, of state land other than its primary classification when the use is compatible with the department's
26 multiple use objective.

27 (4) As used in this section, "carbon offsets" means a verifiable, transferable unit based on a measured
28 amount of carbon storage expressed as a carbon dioxide equivalent accruing due to specific land management
29 practices.

30

1 **Section 3.** Section 77-1-203, MCA, is amended to read:

2 **"77-1-203. Multiple-use management.** (1) The board shall manage state lands under the multiple-use
3 management concept defined as the management of all the various resources of the state lands so that:

4 (a) they are utilized in that combination best meeting the needs of the people and the beneficiaries of
5 the trust, making the most judicious use of the land for some or all of those resources or related services over
6 areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs
7 and conditions and realizing that some land may be used for less than all of the resources and that some land
8 may be used as a carbon offset resource as provided for in [section 2]; and

9 (b) harmonious and coordinated management of the various resources, each with the other, will result
10 without impairment of the productivity of the land, with consideration being given to the relative values of the
11 various resources.

12 (2) If a parcel of state land in one class has other multiple uses or resource values ~~which that~~ are of such
13 significance that they do not warrant classification for the value, the land ~~shall must~~, nevertheless, be managed
14 ~~insofar as is~~ to the extent possible to maintain or enhance these multiple-use values.

15 (3) State lands, including those lands that are leased primarily for other purposes, are open to general
16 recreational use subject to legal access and to closures and restrictions pursuant to rules adopted under
17 77-1-804.

18 (4) The department shall include in all new or renewal leases and licenses a provision that leased lands
19 may not be closed at any time to the public for general recreational purposes without advance written permission
20 of the department."

21
22 **Section 4.** Section 77-1-209, MCA, is amended to read:

23 **"77-1-209. Leasing rules.** (1) The board may prescribe rules relating to the leasing of state lands ~~as~~
24 that it considers necessary in order that the use and proceeds of these lands may contribute in the highest
25 attainable measure to the purposes for which they are granted to the state of Montana. The rules should prescribe
26 a procedure for setting all fees and rental rates for the use of state lands for any purpose. The procedure should
27 establish provisions for notice, public comment, public hearings, and appeal.

28 (2) Rules related to carbon offsets, as defined in [section 2], on state trust lands may be subject to rules
29 adopted pursuant to [section 1]."
30

1 **Section 5.** Section 77-5-223, MCA, is amended to read:

2 **"77-5-223. Annual sustainable yield as timber sale requirement -- review.** (1) The annual sustainable
3 yield constitutes the annual timber sale requirement for the state timber sale program administered by the
4 department. This annual requirement may be reduced proportionately by the amount of sustained income to the
5 beneficiaries generated by site-specific alternate land uses, including carbon offsets as defined in [section 2],
6 approved by the board.

7 (2) After it is determined under 77-5-222, the annual sustainable yield must be reviewed and
8 redetermined by the department, under the direction of the board, at least once every 10 years."

9
10 **Section 6.** Section 77-6-116, MCA, is amended to read:

11 **"77-6-116. Voluntary termination of lease to allow concurrence with federal conservation reserve**
12 **program or carbon offset program -- competitive bidding required.** (1) A lessee of state land who wishes
13 to enter the state land in the federal conservation reserve program or a carbon offset program may request
14 voluntary termination of the remainder of the lease prior to scheduled expiration in order to seek a renewal lease
15 that will run concurrently with the federal program or carbon offset program. The lessee shall apply for voluntary
16 termination to the department on a form prescribed by the department. The form must specify:

17 (a) the name of the lessee and a designation of the leased land for which voluntary termination is sought;

18 (b) the scheduled termination date of the lease; and

19 (c) the term of eligibility of the land under the federal conservation reserve program or the carbon offset
20 program.

21 (2) Upon receipt of a proper application, the department shall terminate the remainder of the lease. When
22 a request for voluntary termination is granted, the department shall fulfill the notification requirements of 77-6-204,
23 and the lease is subject to the same competitive bidding process as renewal leases under 77-6-205. However,
24 the lessee requesting voluntary termination retains the preference right allowed under 77-6-205.

25 (3) If a lease renewal is granted pursuant to 77-6-205 to a lessee who has requested voluntary
26 termination under this section, the term of the renewal lease must coincide with the term of eligibility under the
27 federal conservation reserve program or the terms of participation in the carbon offset program."

28
29 **NEW SECTION. Section 7. Codification instruction.** (1) [Section 1] is intended to be codified as an
30 integral part of Title 75, and the provisions of Title 75 apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 77, chapter 6, and the provisions of Title 77, chapter 6, apply to [section 2].

NEW SECTION. Section 8. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 10. Effective date. [This act] is effective on passage and approval.

- END -